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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,098	11/19/2003	Donald Carroll Roe	4981C2C	7301
27752	7590	04/06/2006		
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			EXAMINER STEPHENS, JACQUELINE F	
			ART UNIT 3761	PAPER NUMBER

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/717,098	Applicant(s) ROE, DONALD	
	Examiner Jacqueline F. Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

((e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by 1 Roe (USPN 5941864). The applied reference has a common *** with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

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3. Regarding claims 1, 4, 6, 8, 9, 14,15, and 17, Roe discloses a disposable article **20** comprising a hydrophobic topsheet **24**, a backsheet **26** at least partially joined to the topsheet, and a fecal storage element **25** intermediate the topsheet and the backsheet (col. 4, lines 58-64). The fecal storage element may optionally be joined to the backsheet and topsheet (col. 5, lines 25-35). The disposable article may further comprise an absorbent core intermediate the fecal material storage element and the backsheet (Figure 2).

The fecal material storage element has two major faces. The first major face is oriented towards the topsheet and the second major face is oriented towards the backsheet (col. 7, lines 10-14). Less than 50% of the surface area of the first major surface of the fecal material storage element is bonded to the topsheet. At least 50% of the surface area of the second major surface of the fecal material storage element is bonded to the core (col. 14, lines 23-37).

The trans-topsheet capacity is greater than about 0.2 grams per square inch (col. 7, line 66). Roe discloses the trans-topsheet capacity may be at 0.3, 0.4 and up to 0.6 grams per square inch (col. 10, lines 38-45).

The hydrophobic topsheet is apertured and can have an effective aperture size of at least 0.3 square mm (col. 10, line 49). The topsheet is bonded to the fecal material storage element at discrete sites between about 0.5 and 7.6 cm (col. 13, lines 60-66).

4. In reference to claims 2 and 18, at least a portion of the hydrophobic topsheet is treated to be hydrophilic (col. 7, lines 28-31).

In reference to claims 3 and 19, the hydrophobic topsheet is selected from the group of materials as claimed (col. 7, lines 28-31).

5. Regarding claim 5, the fecal material storage element comprises a cellulosic fibrous structure (col. 12, line 53).

Regarding claim 7, the fecal material storage element maintains a 3-dimensional configuration under load (col. 13, lines 4-16).

In reference to claims 10, 11, and 16, at least 20 square inches of the disposable article has the trans-topsheet capacity (col. 7, line 67). At least 15 square inches has a trans-topsheet capacity greater than about 0.30 grams per square inch (col. 8, 24; Table I).

With respect to claim 12, the topsheet and fecal material storage element are joined at discrete sites spaced at least about 0.5 inches apart (col. 13, lines 63-66).

With respect to claim 13, the fecal material storage element comprises blind holes having a depth of at least 0.75 millimeters while under a load of 31.6 grams per square meter (col. 13, lines 10-14).

Regarding claim 20, see Figure 2.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

March 31, 2006